

## **REMARKS**

Claims 1-34 and 36-62 are now pending in the application. Claims 1-30 and 62 are allowed. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 31-34, 36-56 and 58-61 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nicholson (U.S. Pat. No. 6,131,915, hereinafter "Nicholson"). This rejection is respectfully traversed.

At the outset, Applicants reiterate the arguments previously presented regarding the failure of Nicholson to teach the flexible stopper of claims 31 and 61 having a trapezoidal cross-section. In response to Applicant's arguments, the Examiner has indicated that "[t]he stopper [of Nicholson] is required to be less flexible than the inner seal. Nicholson states that configurations other than perpendicular walls/struts in the stoppers can also be used, which would offer some flexibility (col. 5, lines 1-5)." In the current rejection, the Examiner further cites column 4, line 58 through column 5, line 5 and column 5, lines 19-24 as teaching the flexible stopper of claims 31 and 61. Applicants respectfully disagree with this interpretation of Nicholson.

Specifically, column 4, line 58 through column 5, line 5 of Nicholson states:

Situating furthest from the aperture 4 (towards the right of FIG. 13), each layer 6, 8 is provided with an embossment 110c, 110d which has a generally rectangular cross-sectional profile. These embossments 110c, 110d, therefore, include a series of walls 111 which are perpendicular to the opposed faces between which the seal operates. These perpendicular walls operate as struts of very great strength and can thereby control the degree of compression of the seal with high accuracy. The result is that over-compression of the seal can be avoided.

V-shaped or arcuate embossments could be used instead of the rectangular embossments, but these will not provide the same degree of

strength. However, because such embossments can be easier to manufacture, it may be desirable to use them where the seal is likely to experience lower compressive loads.

Column 5, lines 19-24 of Nicholson state:

In this embodiment, the buttress corrugations 110a, 110b have a saw-tooth profile, because this provides one perpendicular wall 112 in combination with economical manufacture. A perpendicular wall provides a particularly strong resistance to movement. Corrugations having other profiles such as V-shaped or arcuate could be used instead.

While the Examiner indicates that these sections teach flexible stopper portions, Applicants submit that the opposite is taught. Nicholson specifically states "[t]hese perpendicular walls operate as struts of very great strength and can thereby control the degree of compression of the seal with high accuracy." Applicants submit that Nicholson actually teaches rigid, not flexible stopper portions. When discussing that "[v]-shaped or arcuate embossments could be used instead of the rectangular embossments, but these will not provide the same degree of strength," Nicholson appears to suggest that these weaker embossments are undesirable. Thus, not only does Nicholson fail to disclose the flexible stoppers of claims 31 and 61, it actually appears to teach away from flexible stoppers.

It is established that where references, instead of suggesting the invention, seek or warn to avoid the suggestion, such references diverge from and teach away from the invention at hand and it is error to find obviousness based on such references. In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1599 (Fed. Cir. 1988)(citing W.L. Gore & Assocs. v. Garlock, Inc., 721 F.2d 1540, 1550, 220 USPQ2d 303, 311 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984)). As indicated above, Nicholson clearly indicates the desirability of using a rigid stopper, as opposed to the flexible stopper as claimed. As

such, it appears that Nicholson teaches away from the flexible stopper of claims 31 and 61 and it therefore cannot properly be used to form a §103 rejection.

Further, Applicants submit that the trapezoidal cross-section of claims 31 and 61 is important. Specifically, the load levels of the stress points of the trapezoidal design are better balanced than a rounded embossment design. Further, Applicants note that there is no motivation cited for this combination. As such, Applicants submit that the trapezoidal cross-section feature of claims 31 and 61 provides an additional basis for the allowance of claims 31 and 61.

As such, claims 31 and 61 should currently be in condition for allowance. Claims 31-34, 36-56, and 58 to 60 depend from claim 31 and should be in condition for allowance for the reasons set forth above. Therefore, reconsideration and withdrawal of the rejection of claims 31-34, 36-56 and 58-61 are respectfully requested.

#### **ALLOWABLE SUBJECT MATTER**

The Examiner states that claims 1-30 and 62 are allowed. The Examiner further states that claim 57 would be allowable if rewritten in independent form. However, in view of the arguments indicated above, Applicants believe that claim 31 is currently in condition for allowance and therefore claim 57 is in condition for allowance as well.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office

Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: 8-18-06

By: Ryan W. Massey  
Ryan W. Massey  
Reg. No. 38,543

CORRESPONDENCE ADDRESS:  
Ronald W. Wangerow, Reg. No. 29,597  
FREUDENBERG-NOK GENERAL PARTNERSHIP  
Legal Department  
47690 East Anchor Court  
Plymouth, MI 48170-2455  
Direct Line: (734) 354-5445  
Facsimile: (734) 451-1445

RWM/JMP/slg